

#21

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Inventor: Mark Rasper et al.

Title: KNIFE INDEXING APPARATUS

Serial No. 09/222,282

Filed: 12/29/99

Examiner: K. Tran

Art Unit: 3724

Supervisory Examiner: Rinaldi I. Rada

APPELLANT'S REPLY BRIEF TO EXAMINER'S ANSWER

Under 37 CFR 1.19(b)(1)

This is a reply brief to the examiner's answer of 11/01/01, which is responsive to the appellant's supplemental appeal brief filed 4/17/01 in the above-described patent application.

APPENDICIES

Appended to this reply brief are:

Exhibit R1: A copy of a Notification of Non-Compliance mailed by the examiner on 09/20/01

Exhibit R2: A copy of a FAX transmitted 10/04/01 of a summary of an interview of the same date with regard to the Notification of Non-Compliance of Exhibit R1.

Exhibit R3: A copy of the Examiner's Answer, mailed 11/01/01, in response to the appellant's supplemental appeal brief of 04/17/01.

The above listed exhibits were not earlier presented by the appellant due to the fact they were presented to the appellant by the examining group after the filing of appellant's supplemental appeal brief. They are being submitted under 37 CFR 1.195.

Exhibit 1 is relevant to the board's consideration of the facts in this case because it shows the degree to which the examiner is capable of erring in seeking to deny the appellant his rights under the law.

Examiner Tran states, "Applicant's Supplemental Appeal Brief has not been entered. Applicant can not submit an Appeal Brief that supplements a previously submitted Appeal Brief."

The law (37 CFR 1.193(2)(ii)) states "If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief..."

Examiner Tran states, "applicant must submit a new brief in its entirety."

The MPEP (MPEP 1208.02 the paragraph beginning "If reinstatement...") states in part "The supplemental appeal brief must comply with the requirements of 37 CFR 1.192(c) but in doing so may incorporate by reference such parts of the previously-filed brief as may still be applicable."

In view of the egregious nature of examiner Tran's errors shown above, the appellant asks that the board view examiner Tran's other pronouncements with skepticism and apply the law to the facts present in this case in rendering their decisions.

ISSUES

There are three issues the appellant has placed before the board

ISSUE 1

Are issued patents available as prior art references as of their filing dates for the purposes of making 35 USC 103 rejections?

ISSUE 2

Does an un-denied discovery that is of uncontested novelty and un-obviousness and which is a critical part of an invention and is the basis for a restriction in the claim at issue provide novelty and unobviousness to the claim?

ISSUE 3

Does a disclosure in the prior art of a mechanism found in a prior art reference taken from an art area remote from and not analogous to that of the claimed invention and wherein the prior art mechanism does not perform in the same mode as that of the mechanism of the claimed invention and does not achieve the same end as that of the claimed invention, serve to render the claimed invention obvious under 35 USC 103 on the grounds that the mechanism is disclosed in the prior art reference and its modes of operation and the ends that the mechanism achieves are common knowledge, without any showing of any prior art knowledge of the mechanism working in the claimed mode to achieve the claimed end?

COMMENTS

With regard to issue 1, examiner Tran argues that Bailey is available as of its (04/15/97) filing date as a 35 USC 103(a) reference. The applicant disagrees

and contends that Bailey was not available to render the appellant's invention obvious to one skilled in the art at the time the appellants invention was made as established by the filing date of (01/05/98) of appellant's provisional patent application which precedes the issue date of Bailey; (06/09/98). The sole grounds for rejection of the claim at issue presented by the examiner is 35 USC 103(a). Examiner Tran's references to 35 USC 102(e) practices are all hypothetical speculative specious obfuscations as no 35 USC 102(e) or 35 USC 102/103 hybrid rejections have been made by the examiner in this case. Therefore the issue before the board is; are pending patents available as of their filing dates for the purpose of showing an invention would have been rendered obvious thereby to one skilled in the art even though one skilled in the art had no access to the pending patent application at the time the claimed invention was made. Examiner Tran finds that patents are available as 35 USC 103 references as of their filing date. The appellant argues that they are not. For this reason the appellant asks that the board find the examiners 35 USC 103(a) rejection of his claim 1 to be in error and reversal of the rejection is respectfully requested.

With regard to issue 2; The appellant discloses in his specifications and drawings and incorporates in his claim (claim 1, subparagraph g) the discovery that accurately indexing a non-rotating core cutting knife in the direction of rotation of cores to be cut will provide a greater number of cutting edges per knife than indexing the cutting knife against the direction of rotation of the

cores to be cut. This discovery coupled with the accurate indexing achievable using a worm and worm gear provide novelty and un-obviousness to appellant's invention.

The appellant relies upon 35 USC 103(a) the last sentence (Patentability shall not be negated by the manner in which the invention was made.) along with 35 USC 100(a) (the term "invention" means invention or discovery) to support his contention that his discovery incorporated into his claim 1 as a limitation in subparagraph g of claim 1 is a patentable invention. Examiner Tran has made no arguments to refute that contention.

Therefore the appellant's incorporation of his discovery as a limitation of claim 1 imparts novelty and un-obviousness to claim 1.

The appellant submits for that reason, examiner Tran's rejection of appellant's claim 1 is in error. The appellant asks that the board so find and respectfully requests reversal of examiner Tran's 35 USC 103(a) rejection of appellant's claim 1.

With regard to issue 3, The mode of operation of the worm and worm gear of appellant's invention serve as an indexing means and a positional hold for a non-rotating cutting tool in the core cutting art. In contrast, the worm and worm gear of Konbar serves to rotate a roller in the sheet dispensing art.

Absent the hindsight benefits of the appellant's disclosures, one skilled in the art would not find within the four corners of Bailey and Konbar the direction or motivation to select Konbar from the body of unrelated prior art and employ the worm and worm gear of Konbar to precisely index and positionally hold the non-rotating cutting tool of Bailey for the purpose of increasing the number of new cutting edges per circular knife obtainable by so doing.

The examiner's argument that it is within the skill level of one of ordinary skill in the art to apply a commonly utilized engineering mechanism such as a worm gear and worm to modify Bailey is specious. In the absence of any showing that there is any knowledge in the core cutting art or an analogous art or closely related art, of the application of a worm and worm gear as an indexing means and positional hold for a non-rotating cutting tool, there is no basis in fact for assuming that one skilled in the art brings to the problem solved, any knowledge of a worm gear and worm functioning as an indexing means and positional hold.

The appellant submits that for the reasons stated above Examiner Tran's 35 USC 103(a) rejection of appellant's claim 1 is in error and reversal is respectfully requested.

REPLY TO EXAMINER'S ANSWER

On page 3, paragraph 1, the second line of the Examiner's Answer, examiner Tran states, "Bailey discloses all the recited limitations of the invention except for a worm gear and worm." The statement is false at least with regard to the limitation of direction of indexing made in subparagraph g of appellant's claim 1. The direction of indexing is critical to achieving the benefits of this invention and the worm and worm gear of this invention serve to accurately index and position the non-rotating knife of this invention to further enable the achieving of the benefits of this invention. This error in the examiner's statement above makes the statement deceptive and misleading.

On page 3, paragraph 2, of the Examiner's Answer, examiner Tran states, "It would have been obvious to one of ordinary skill in the art to provide the apparatus of Bailey with a worm gear and worm shaft to 1) eliminate the need to manually drive the shaft (44) of Bailey which indexes the circular knife and 2) it is well known to provide a worm gear and worm shaft mechanism to generate rotary motion." This statement by examiner Tran is in error and misleading for two reasons.

First, his statement to the effect that it would have been obvious to provide a worm and worm gear to the teaching of Bailey to eliminate the need to manually drive the shaft of Bailey interjects into the appellant's

claim 1 the limitation of eliminating the need to manually drive the shaft of Bailey. Bailey provides a fluid cylinder means for eliminating the need for manually indexing his knife (see Bailey claim7). The novelty and unobviousness of appellant's invention does not reside in eliminating the need to manually drive his indexing means.

Second, his statement to the effect that it is well known in the art to provide a worm shaft mechanism to generate rotary motion does not serve to show or claim that it is well known in the art to provide a worm and worm shaft for the purposes of indexing and positioning which is the mode of operation and end achieved by the claimed invention.

On page 3, paragraph 3, examiner Tran restates without any showing of fact or documentary support that in his opinion, it would have been obvious for one skilled in the art to use a worm gear and worm shaft as an index and positional hold as taught and claimed by the appellant.

In the paragraph spanning page 3 and 4 of the Examiner's Answer, in the second line of the paragraph, examiner Tran makes the false statement that "The examiner's 35 USC 103(a) rejection was based on a combination of a 102(e)/103 rejection based on the earlier filing date of Bailey."

The record shows that no 35 USC 102(e) rejection is now pending or was ever made by examiner Tran in this case. The record further shows that no 35 USC 102(e)/103 rejection is now pending or was ever made by examiner Tran in this case.

The appellant argues that, there being no 35 USC 102(e) grounds for rejection made in this case there are no 35 USC 102(e) issues present in this case. Therefore, the examiner's arguments based on 35 USC 102(e) practice are hypothetical and are not germane to the issues before the board.

The appellant further argues that a finding by the board that Bailey is available as prior art as of its filing date for the making of a 35 USC 103(a) rejection in this case would be tantamount to declaring that all issued patents are available as prior art as of their filing dates in 35 USC 103(a) practice. Examiner Tran's argument that had Bailey been a 35 USC 102(e) reference, it would have been available for the purpose of making a 35 USC 102(e) rejection as of its filing date and therefore Bailey is available as a 35 USC 103(a) reference as of its filing date could be applied to any issued patent whatever.

CONCLUSIONS

For the reasons stated above the appellant respectfully submits that examiner Tran's 35 USC 103(a) rejection of appellant's claim 1 is in error and a reversal is respectfully requested.

For the reasons stated above the appellant respectfully submits that examiner Trans finding that Bailey is available as a 35 USC 103(a) reference as of the filing date of Bailey is in error and a reversal is respectfully requested.

Submitted By

A handwritten signature in black ink, appearing to read "Russell L. Johnson", written over a horizontal line.

Russell L. Johnson

Patent Agent (26,918)

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920/867-3482

APPENDIX

Exhibit R1: A copy of a Notification of Non-Compliance mailed by the examiner on 09/20/01

Exhibit R2: A copy of a FAX transmitted 10/04/01 of a summary of an interview of the same date with regard to the Notification of Non-Compliance of Exhibit R1.

Exhibit R3: A copy of the Examiner's Answer, mailed 11/01/01, in response to the appellant's supplemental] appeal brief of 04/17/2001.



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

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Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/222,282 12/28/98 RASPER

M

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QM32/0920

EXAMINER

TRAN, K

ART UNIT

PAPER NUMBER

3724

DATE MAILED:

09/20/01



Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.

09/222,282

Applicant(s)

RASPER ET AL.

Examiner

Kim Tran

Art Unit

3724

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 17 April 2001 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192 (c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENTIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c) (7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

Applicant's Supplemental Appeal Brief has not been entered. Applicant can not submit an Appeal Brief that supplements a previously submitted Appeal Brief. Applicant must submit a new Brief in its entirety.

M. Rachuba
Primary Examiner



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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GROUP 3710/3720 FACSIMILE TRANSMITTAL

DATE: 10/4/01

TO: Mr. Russell Johnson

FAX: 920-867-3482 PHONE: _____

SERIAL NO: 09/222282 ATTY. DK.#: _____

FROM: M. RACHUBA VOICE: 703-308-1361 AU: 3724



FAX NUMBERS:

(PLEASE FAX PAPERS TO THE NUMBER INDICATED BELOW)

FORMAL PAPERS _____ 703-305-3579/3580

DRAFT PAPERS _____ 703-308-7769 _____ 703-308-7768 _____ 703-305-9835

NOTES: Please indicate whether reply is a FORMAL or Draft amendment.

____ Please notify examiner that reply has been faxed.

COMMENTS: Please see attached indexed Summary.

OF PAGES: 3
(INCLUDING COVER SHEET)

Interview Summary

Application No.

09/222,282

Applicant(s)

RASPER ET AL.

Examiner

K. TRAN
M. Rachuba

Art Unit

3724

All participants (applicant, applicant's representative, PTO personnel):

(1) M. Rachuba.

(3) _____

(2) Mr. Russell Johnson.

(4) _____

Date of interview: 04 October 2001.Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____Claim(s) discussed: of record.Identification of prior art discussed: of record.Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.Substance of interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The supplemental appeal brief, filed April 17, 2001 is proper. The letter re Defective Brief is incorrect and appellant need not reply to it. The examiner will be acting on the brief within the next two months.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☐ It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove this necessity for reply to Office action as specified in §§ 1.111, 1.135, (35 U.S.C. 132)

37 CFR § 1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiner's Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check the appropriate box at the bottom of the Form which informs the applicant that the submission of a separate record of the substance of the interview as a supplement to the Form is not required.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.



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Patent and Trademark Office

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Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/222,282	12/23/98	RASPER	

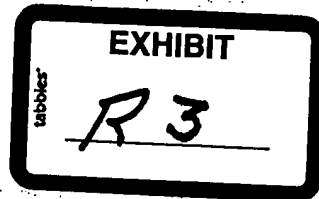
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QM12/1101

EXAMINER
TRAN, K

ART UNIT	PAPER NUMBER
3724	

DATE MAILED: 11/01/01



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GROUP 3700

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 20

Application Number: 09/222,282
Filing Date: December 28, 1998
Appellant(s): RASPER ET AL.

Russell L. Johnson
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed April 17, 2001.

(1) ***Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that all claims stand or fall together.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

5,761,976	Bailey	6-1998
5,904,283	Kanbar	5-1999

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey in view of Kanbar. Bailey discloses all the recited limitations of the invention except for the a worm gear and worm shaft.

Kanbar teaches a worm gear and worm shaft to drive the shaft of a roller (fig. 1, col. 3, lines 29-37). It would have been obvious to one of ordinary skill in the art to provide the apparatus of Bailey with a worm gear and worm shaft to 1) eliminate the need to manually drive the shaft (44) of Bailey which indexes the circular knife and 2) it is well known in the art to provide a worm gear and worm shaft mechanism to generate rotary motion.

(11) Response to Argument

Applicant contends that there is no motivation to provide the apparatus of Bailey with the worm gear and worm shaft of Kanbar. The Examiner disagrees with this contention. Kanbar was cited to show that the combination of a worm gear and worm shaft is a well-known mechanism for generating rotary motion. As taught by Bailey in column 3, lines 50-51, the knife assembly may be an automatic indexing unit, rather than a manual indexing unit. To modify Bailey to include a commonly utilized engineering mechanism such as worm gear and worm shaft would be within the skill level of one of ordinary skill in the art and not be non-obvious.

Applicant argues that the 35 USC 103(a) rejection based on the April 15, 1997 filing date of Bailey is improper. The Examiner's 35 USC 103(a) rejection was based on a combination of a 102(e)/103 rejection based on the earlier filing date of Bailey. The earlier filing date of Bailey is considered prior art under § 102 (e) and therefore can be

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taken into consideration in support of a § 103 obviousness rejection of the later filed application. See *In re Bowers*, 53 CCPA 1590, 359 F. 2d 886, 149 USPQ 570 (1966).

Therefore, the rejection under 35 USC 103 (a) is proper.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



knt

October 30, 2001

RUSSELL L JOHNSON
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M. H. Johnson
Primary Examiner

Confer
(B)